S.B. Civil Misc. Appeal No.1976/2006.
(Kartar Singh & Ors. Vs. Khertilal & Ors.)

Date of Order :: 5th January 2007.

HON'BLE MR. JUSTICE DINESH MAHESHWARI

Mr. G.J.Gupta with
Ms. Premlata Dabi, for the appellants.

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By way of this appeal, the claimants seek enhancement over the amount of compensation awarded by the Tribunal on account of accidental death of Smt.Guddi, wife of the claimant No.1 and mother of the claimants Nos. 2 & 3.

In its impugned award dated 09.05.2005 in Claim Case No.55/2005, the Motor Accidents Claims Tribunal, Sriganganagar has estimated the age of the deceased at 50 years on the basis of post-mortem report and has not accepted the contention of the claimants about her earning Rs.3,000/- per month by knitting and tailoring job for want of cogent evidence; and has taken her notional income as a house-wife at Rs.15,000/- per annum and deducting one-third wherefrom and with application of multiplier of 13 has assessed pecuniary loss at Rs.1,30,000/-. The Tribunal has allowed Rs.20,000/- to the husband of the deceased towards loss of consortium and Rs.10,000/- to each of the sons of the deceased for loss of love and affection of their mother; and

has further allowed Rs.5,000/- towards funeral expenses. Thus, the Tribunal has made the award of compensation in the sum of Rs.1,75,000/- in favour of the claimants. The Tribunal has allowed interest at the rate of 9% per annum from the date of filing of claim application after adjustment of the amount received under interim award.

It has been strenuously contended by learned counsel that the Tribunal has erred in not taking income of the deceased as asserted by the claimants at Rs.3,000/- per month and then has erred in applying the multiplier of 13 only though the age of the deceased was below 50 years; and then the amount awarded towards non-pecuniary loss is also inadequate.

Having heard learned counsel for the appellants and having perused the impugned award, this Court is clearly of opinion that this appeal for enhancement remains devoid of merit and deserves to be dismissed. The Tribunal has erred, if at all, in favour of the appellants and not against them.

The amount of pecuniary loss assessed by the Tribunal in the sum of Rs.1,30,000/- is not on the lower side. The Tribunal has noticed that the claimants have not adduced any proof about the age of the deceased and has, therefore, estimated her age as mentioned in the post-mortem report at 50 years. Looking to the overall set up and status of the

family, the Tribunal has rightly rejected the bald assertion of the claimants about earning of the victim at Rs.3,000/- per month by way of knitting and tailoring job. The Tribunal has put a reasonable estimate of loss of contribution at Rs.10,000/- per annum taking the victim a house-wife and has rightly applied the multiplier of 13. The Tribunal has awarded rather higher side amount towards non-pecuniary loss by allowing Rs.20,000/- to the husband and Rs.10,000/- to each of the sons of the victim. Yet further, the Tribunal has allowed higher rate of interest at 9% per annum.

This court is clearly of opinion that in the ultimate analysis, the award made by the Tribunal in favour of the claimants stands on higher side ruling out any scope for enhancement.

The appeal fails and is, therefore, dismissed summarily.

(DINESH MAHESHWARI), J.